



A State of Breaking the Law Caused by Abrasion: A Research in Jembrana Regency

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Abstract. A state of breaking the law has been regulated in article 1365 of the Civil Code, but this is purely the result of human actions. What happen if a person or society unknowingly, is in a state of breaking the law caused by the effects of global warming, in this case abrasion by sea water. This study aims to discuss and find solutions, so that people living on the coast who previously met the requirements regulated by laws and regulations, are still protected and get legal certainty, so that the law benefits the community. In Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands, Article 1 paragraph 21 juncto Article 12 Paragraph 4 of Law Number 51 of 2016 concerning Coastal Borders, the minimum distance between the coastal border and the highest point of the tide is 100 meters. To have a building that meets government standards in accordance with applicable laws and regulations, the community and tourism business people, especially investors who have built 20 years ago or more, who own property on the beach, must have met the requirements so that they have sufficient permits. However, global warming which has an impact on increasing the volume of sea water so that in addition to having an impact on abrasion on many coasts, this unknowingly also has an impact on coastal boundaries which in the legislation the minimum distance is 100 meters, but when measured at this time, most of the buildings are more than 20 years old, their position violates the coastal border regulations. This situation places coastal communities and tourism supporting buildings in a state of breaking the law caused by abrasion as a continuation of the effects of global warming.

Keywords: Beach Border, Breaking the Law, Abrasion, Global Warming, Impact of Tourism.

1 Introduction

The existence of tourism in coastal areas has great potential to become a significant source of income for local communities and also contribute to regional economic development. However, the problem of coastal abrasion can threaten the sustainability of tourism in coastal areas. One example of an area facing this problem is in Jembrana Regency, Bali Province. Jembrana, Bali, is a coastal area rich in natural beauty and tourism potential. However, the problem of beach abrasion that occurs in this area has caused the loss of tourism utilization in several coastal areas. Coastal

abrasion is an erosional process that occurs on the coast due to strong sea waves and changes in river water flow, resulting in a setback of the coastline.

As a result of coastal abrasion, the coastline in Jembrana has suffered significant retreats, and coastal areas have become increasingly threatened. This has an impact on the loss of beach areas that were previously used for tourism, such as beach resorts, restaurants or hotels. Shrinking of the coastline can also result in inundation of coastal areas during high tides or storms, resulting in further damage to tourism infrastructure and facilities. In addition, the presence of coastal abrasion also violates legal provisions governing coastal boundaries. In Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands, as well as Presidential Regulation Number 51 of 2016 concerning Coastal Borders, it is explained that the minimum distance between the coastline and buildings or human activity is 100 meters. With abrasion that causes a shift in the coastline, the coastal boundaries also change, and this can cause violations of applicable legal regulations.

Overcoming the problem of coastal erosion and tourism recovery in Jembrana is important to maintain economic, environmental and social sustainability in coastal areas. Sustainable management efforts are needed, such as protecting the coast, planting beach-retaining vegetation, regulating human activities around the coast, and restoring coastal ecosystems. In addition, it is also necessary to enforce stricter laws related to the fulfilment of coastal boundaries so that tourism in coastal areas remains within the corridors of applicable law. With the right actions to overcome coastal erosion and maintain tourism sustainability, Jembrana has great potential to re-utilize its coastal tourism potential. This will provide economic benefits to the local community, maintain the natural beauty and cultural uniqueness of the area, and provide investment opportunities in a sustainable tourism sector.

In Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands, Article 1 paragraph 21 junto Article 12 paragraph 4 Presidential Regulation Number 51 of 2016 concerning Coastal Borders, the minimum distance between the coastal border and the highest point of high tide is 100 meters. To have a building that meets government standards in accordance with applicable laws and regulations, the community and tourism business people, especially investors who have built 20 years ago or more, who own property on the beach must have met the requirements so that they have sufficient permits. However, global warming which has an impact on increasing the volume of sea water so that in addition to having an impact on abrasion on many coasts, this unknowingly also has an impact on coastal boundaries which in the legislation the minimum distance is 100 meters, but when measured at this time, most of the buildings are more than 20 years old, their position violates the coastal border regulations.

The condition of tourist spots in Jembrana, Bali, which previously did not break the law because they met the coastal boundaries, is currently experiencing changes due to beach abrasion. The abrasion that occurred caused the coastline to retreat, so that several tourism places that were previously within the coastal boundaries are currently violating the law because they do not comply with the established provisions. For example, prior to beach abrasion, a beach resort in Jembrana had built tourism facilities, such as restaurants, lodging, or recreational areas in areas that were in

accordance with the coastal boundaries established by laws and regulations. Utilization of this land is carried out by complying with applicable legal provisions and following the appropriate licensing process.

However, with coastal abrasion causing a shift in the coastline, some of these tourism facilities are now in areas that violate the law because they have crossed the specified coastal boundaries. This shift in coastline does not only affect the physical existence of tourism spots, but also involves legal and licensing aspects. In this context, it is important to review the laws and regulations regarding coastal boundaries and make the necessary adjustments. Shoreline changes due to abrasion are unavoidable, and efforts to change the coastal boundaries may be necessary so that existing tourism spots can continue to operate legally.

However, changing the coastal boundaries is not an easy task. In making these adjustments, it is necessary to consider environmental aspects, tourism sustainability, and the participation of all parties involved, including owners and managers of tourism places, local governments and related institutions. A careful and coordinated approach is needed to maintain a balance between the interests of tourism and the sustainability of the coastal environment.

In addition to adjusting the coastal boundaries, handling the beach abrasion problem itself is also an important step. Efforts to protect the coast and to rehabilitate coastal ecosystems need to be carried out to minimize further damage and restore areas affected by abrasion. In this case, the involvement of various parties, including the local community, is also very important to create sustainable solutions. By overcoming the problem of beach abrasion and adjusting the coastal boundaries according to current conditions, tourism places in Jembrana can resume operating legally and contribute to the development of sustainable tourism. This will enable economic recovery, environmental protection and tourism sustainability in the Jembrana coastal area.

2 Methodology

This research does not only use normative research methods but also looks at the reality on the ground, be it the state of the environment on the beach, the position of buildings on the beach or the application of regulations when the community applies for permits at the Jembrana District Licensing Service with the aim of analyzing and interpreting laws and regulations related to the management of coastal areas and coastal boundaries. This method will enable researchers to understand the legal provisions that apply in the context of tourism development in the Jembrana coastal area.

The statutory approach is used to examine in depth the legal regulations governing the management of coastal areas and coastal boundaries, including Law Number 27 of 2007 concerning Management of Coastal Zones and Small Islands, Presidential Regulation Number 51 of 2016 concerning Coastal Borders, and Law Number 1 of 2014 concerning Amendments to Law Number 27 of 2007 concerning Management of Coastal Zone and Small Islands. This approach will assist in evaluating the extent of

the violation of the coastal boundaries caused by shoreline changes due to beach abrasion.

In addition, a conceptual approach is used to analyze important concepts related to coastal tourism management, economic, environmental and social sustainability. These concepts include sustainable tourism development, protection of coastal ecosystems, community participation, and economic benefits resulting from tourism. This approach will provide the necessary theoretical framework to answer research questions and formulate sustainable recommendations.

By combining empirical research methods with normative research methods with statutory and conceptual approaches, this research is expected to produce a comprehensive understanding of the impact of beach abrasion on the use of tourism in Jembrana, looking at it from a legal and conceptual perspective. The results of this study are expected to contribute to the development of policies and strategies for sustainable coastal tourism management in Jembrana and other similar areas.

3 Result and Discussion

3.1 Application of the Principles of Justice, Sustainability, and Law Enforcement in Determining the Legal Standing of Violations of Tourism Management Permits Caused by Abrasion

The legal status of violations of tourism management permits caused by coastal abrasion can be analyzed based on the principles of justice, sustainability and law enforcement. These principles serve as guidelines in determining legal responsibility, sanctions or remedies that must be taken against violations that occur as a result of force majeure such as abrasion. Several relevant legal bases in this context include:

Principle of Justice: The principle of justice considers fair and proportional treatment of parties involved in violations of tourism management permits. In the case of abrasion, justice may consider whether the violation occurred due to circumstances beyond the management's control, such as changes in the coastline caused by abrasion. The relevant legal basis for the principle of justice is legal certainty, protection of community rights, and an objective assessment of the circumstances affecting the violation.

Principle of Sustainability: The principle of sustainability emphasizes the need to maintain a balance between tourism development and preservation of the environment and natural resources. In the context of violations of tourism management permits due to abrasion, the principle of sustainability requires that the handling takes into account environmental impacts and sustainable recovery efforts. The relevant legal basis for the principle of sustainability is Law Number 32 of 2009 concerning the Protection and Management of the Environment, which stipulates the obligation of tourism managers to protect the environment.

Principle of Law Enforcement: The principle of law enforcement emphasizes the need to apply the law in a fair and firm manner against violations of tourism management permits, including in cases of abrasion. The relevant legal basis for the principle of law enforcement is the laws and regulations governing the management of

coastal areas and coastal boundaries, as well as law enforcement mechanisms for violations of management permits.

In dealing with violations of tourism management permits caused by abrasion, the legal approach applied must pay attention to justice for all parties involved, maintain the sustainability of coastal ecosystems, and apply effective law enforcement. An objective assessment of the circumstances that led to the violation must be carried out, including force majeure factors such as beach abrasion. In addition, there is a need for sustainable recovery efforts to improve the environmental impact that has occurred.

Indonesian Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands is a relevant legal basis in the context of tourism management in coastal areas, including handling violations of management permits due to abrasion. This law regulates the protection, management and sustainable use of coastal areas.

Presidential Regulation Number 51 of 2016 concerning Coastal Borders also has to do with the problem of violating tourism management permits. This regulation stipulates coastal boundaries that must be obeyed in the management of coastal areas. In the case of coastal abrasion resulting in a shift in the shoreline, the coastal boundaries will change, and this will have an impact on violations of these regulations. Therefore, adjustments to the coastal boundaries regulated in this Presidential Regulation need to be considered in the context of law enforcement against violations of tourism management permits due to abrasion.

Furthermore, Law Number 1 of 2014 concerning Amendments to Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands also has relevance in this discussion. This law is a revision of Law Number 27 of 2007 which emphasizes aspects of protection and better management of coastal areas. Through this law, the principles of justice, sustainability and law enforcement in the management of tourism in coastal areas are strengthened and given a stronger foundation.

In the context of handling violations of tourism management permits caused by abrasion, Law Number 27 of 2007 and its amendments through Law Number 1 of 2014 provide a comprehensive legal framework. Presidential Regulation Number 51 of 2016 Concerning Coastal Borders also serves as a guide in determining relevant coastal boundaries. By taking into account the provisions of this law, law enforcement efforts against violations of tourism management permits due to abrasion can be carried out in accordance with applicable legal provisions and the principles of justice and sustainability.

It is important to consider that in some cases, shoreline changes caused by abrasion can be considered as force majeure or circumstances beyond human control. In this context, the tourism management may argue that they are not directly responsible for the change and that they have followed the regulations in force when obtaining the tourism management permit. In such situations, a comprehensive and fair legal assessment needs to be carried out to determine whether a violation of law has occurred. This will involve an analysis of coastal boundaries that change due to abrasion, interpretation of relevant laws, and consideration of the principles of equity and sustainability. It is important to note that in cases of legal violations that may occur as a result of abrasion, appropriate and proportionate countermeasures must be taken, including

adjustments to the coastal boundaries, environmental restoration, or restoration efforts in accordance with the principles of fairness and sustainability.

In Law Number 27 of 2007 concerning Management of Coastal Zone and Small Islands, as well as Law Number 1 of 2014 concerning Amendment to Law Number 27 of 2007 concerning Management of Coastal Zone and Small Islands, it does not specifically regulate articles that protect acts of violation of the law against the boundaries of the border area due to force majeure such as abrasion.

However, in the context of handling cases of abrasion or shoreline changes caused by force majeure, there are several articles that can be used as a reference in dealing with violations of the law, such as: Article 3 of Law Number 27 of 2007 concerning Management of Coastal Zone and Small Islands: This article regulates the principles of coastal area management, including the protection, management and sustainable use of coastal areas. Although it does not specifically mention force majeure, this article is the basis for protecting the sustainability of the coastal environment in handling law violations.

Article 6 paragraph 2 Presidential Regulation Number 51 of 2016 Concerning Coastal Borders: This article regulates the coastal boundaries that must be complied with in the management of coastal areas determined by various provisions contained in the article, in which the calculation of coastal boundaries must follow the provisions for coastal protection from erosion or abrasion. Although it does not directly refer to force majeure, this article is a reference for determining violations of coastal boundaries due to shoreline changes caused by abrasion.

It is important to note that the handling of cases of law violations against the boundaries of the coastal border area resulting from force majeure such as abrasion will involve a comprehensive and fair legal interpretation. In addition, adjustments or changes to the boundaries of the coastal border area in force majeure situations also need to be considered to maintain the sustainability of tourism and protect the coastal environment.

In addition, to provide legal certainty, legal protection and legal benefits for people who live on the beach, whether in the form of residential houses, tourism support buildings, or recreational areas for tourism that already have permission from the government, should not be declared a violation if the circumstances "breaking" them is currently caused by abrasion. The government should continue to guarantee and provide legal certainty to them when they renew their permits, which in fact have a time limit so that there is a mutualistic relationship between the community and the government and the benefits of the regulations made for the community are well felt by all parties because of the legal protection in them.

3.2 What Government Efforts Can Do to Deal with Coastal Abrasion and Tourism Recovery in Jembrana in a Sustainable Way, Including in Terms of Adjusting Coastal Borders and Protection of Coastal Ecosystems

Examining and reviewing further about legal protection, legal protection is divided into two types, namely consisting of preventive legal protection and repressive legal protection. Firstly, preventive legal protection is used to prevent the occurrence

of disputes over a problem, secondly, the purpose of repressive legal protection is legal protection which has the aim of resolving disputes after a problem has arisen.

In connection with the problems in this paper, according to the authors, the government only has a preventive, not repressive legal protection mechanism. The government is only obliged to make countermeasures so that the phenomenon of abrasion does not occur. It is not that the government does not want to carry out repressive protection, but the Agrarian Law does not regulate the mechanism for implementing repressive legal protection.

The reason for the absence of repressive treatment due to the loss of land rights experienced by the community is not negligence on the part of humans or the government, but rather the loss of land rights due to a natural phenomenon that cannot be controlled by humans. When an area is affected by abrasion or other natural disasters, the community's rights to the land are lost in accordance with the concept of loss of land rights as stipulated in Article 27 of the UUPA, Article 34 of the UUPA, Article 40 of the UUPA.

Regarding state responsibility, in this case the state is a party that cannot be blamed unless the state is proven to have allowed or not made efforts to prevent abrasion. The state is already in the corridor that should be, namely the legal corridor in accordance with the provisions of the BAL. When the government has taken precautions to carry out abrasion, the government does not need to be held accountable because the government has made maximum efforts.

On the other hand, the new community can file for government accountability through a class action lawsuit if the government is proven to have allowed and done nothing in terms of preventing abrasion. The government, as written in the 4th paragraph of the Preamble to the 1945 Constitution, is obliged to protect all the nation's bloodshed, so protecting people's property rights is the government's public responsibility. With regard to legal protection, it will certainly be closely related to the existence of a legal function.

The function of law is indeed as a protection, but it must be poured into a product that contains rigid conditions that can be carried out and implemented so that human life runs as it should. The legal function that the government is trying to carry out regarding legal protection is already listed in the UUPA. UUPA as a legal basis for carrying out legal protection for the community must be consistently implemented. Meanwhile, the formulation of rigid conditions specified in the UUPA only provides preventive legal protection and there is no repressive legal protection mechanism. So from that it can be seen that the function of law has been running in accordance with the applicable provisions and has fulfilled the conditions determined by the UUPA.

Even though the regional government wants to form regulations that provide for a position of repressive legal protection it also cannot be implemented, because based on the statutory hierarchy there is no rule that exists under the law which has content that is contrary to the content contained in higher regulations. All regulations and decisions issued by local governments must be based on the UUPA. If you want to make changes to protective provisions that are only preventive in nature and you want to add substance to legal protection that is repressive in nature, it is necessary to make changes or revisions to the UUPA first, after revisions and changes have been made.

The new local government can form regulations that can further regulate legal protection in a repressive manner. In this case the protection that has been included, that the regional government only has the authority to carry out preventive legal protection. These protections include: replanting mangrove forests on the beach with the aim of planting mangrove forests as a natural wave-breaking plant. This forest is an effective tool and means to break up the big waves of sea water. Forests that have strong roots can be a superior aspect of this mangrove forest.

Furthermore, prohibit the excavation of sand around the beach which is useful for making the beach area sturdy and strong to accept the incoming waves. Apart from that, making breakwater media made of concrete to divide and reduce the strength of the waves that hit the coastal plains, preserving coral reefs in the waters around the coastline. Collaboration with Private Parties and Non-Governmental Organizations: The government can work together with private parties and non-governmental organizations in efforts to protect coastal ecosystems and restore tourism. These partnerships can include fundraising, implementing joint projects, and exchanging knowledge and experiences.

Also, Monitoring and Law Enforcement: The government needs to ensure that there is effective monitoring and law enforcement related to the protection of coastal ecosystems and adjustment of coastal boundaries. This involves enforcing existing regulations, taking action against violations, and imposing strict sanctions on those who damage coastal ecosystems. The above preventive measures were carried out as evidence of the public responsibility of the Regional Government towards the people whose lives could be disrupted due to the abrasion natural disaster. The government can take sustainable actions in dealing with coastal erosion and restoring tourism in Jembrana. It is important to strike a balance between economic development and environmental protection to ensure long-term sustainability for these coastal areas.

4 Conclusion

In the context of managing tourism in coastal areas, coastal abrasion can cause shoreline changes which have an impact on violations of the boundaries of the border area. In this case, the tourism manager can be declared to have violated the law depending on the applicable legal provisions and how abrasion affects the coastal boundaries. Even so, it is necessary to consider that coastal abrasion can be categorized as a force majeure or a situation beyond human control. The principles of justice, sustainability and law enforcement are important references in determining legal responsibility, sanctions or remedies that must be taken in cases of violations of management permits due to abrasion. Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands, Presidential Regulation Number 51 of 2016 concerning Coastal Borders, and Law Number 1 of 2014 concerning Amendments to Law Number 27 of 2007 concerning Management of Coastal Areas and Pulau-Pulau Kecil provides a relevant legal framework for managing tourism and dealing with violations of management permits. In dealing with such a situation, a comprehensive, fair and sustainable legal assessment needs to be carried out, taking into account environmental pro-

tection, tourism sustainability and the principles of justice in maintaining a balance between tourism development and coastal environmental preservation.

Legal protection against coastal abrasion tends to be preventive rather than repressive. The government has an obligation to prevent abrasion through optimal countermeasures. This is because beach abrasion is mainly caused by natural phenomena that cannot be controlled by humans. The government has a public responsibility to protect people's rights related to land ownership, including the permits they already have in the tourism sector. In the context of tourism recovery in areas experiencing abrasion, the government can take sustainable steps, provide policies to people living on the coast including all types of tourism support businesses that have been affected by abrasion that have been licensed without making it difficult for them because this is where the government's role is to provide certainty and legal protection as well as benefits for the entire community and herein, collaboration with the private sector and non-governmental organizations, monitoring and effective law enforcement, as well as the preservation of coastal ecosystems. These preventive actions are a form of local government's public responsibility towards communities affected by coastal abrasion.

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